

Comments and Responses on ARC 4740C
Nursing Facility Cost Reporting
Received November 26, 2019

The following person/organization provided written comments, which are included in the summary below:

1. Jeffrey Steggerda, President, Brighton Consulting Group
2. Jhonna DeMarcky, Director – Healthcare, CliftonLarsonAllen
3. Brent Willett, President & CEO, Iowa Health Care Association
4. Kendall Watkins, Attorney, Kendall R. Watkins, P.C.

COMMENT:

The Department received 34 comments from four respondents on the proposed rules. The comments and corresponding responses from the Department are as follows:

1. Four respondents commented asking about the intent of the Iowa Medicaid Enterprise (IME) in changing the lease rule.

Department Response: The Provider Cost Audit and Rate Setting Unit (PCA) worked with IME Policy Staff and the Attorney General's (AG) office on the intent of Nursing Facility (NF) leasing rules. It was determined that the rule should be updated to more clearly present the intent of the rule and clearly identify allowable lessor cost.

2. Two respondents commented asking if the IME can clearly identify acceptable sources for reporting Landlord Costs.

Department Response: The rule change identifies allowable landlord costs. Acceptable sources for these costs would be documentation that can be provided to support the amounts being reported. Examples include documents from external sources, such as signed lease agreements, bank statements, property tax documents, along with general ledger detail, etc.

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3. Two respondents commented there are specific examples where the landlord may not maintain information on a specific property when part of a larger group of properties. The respondents asked if this is an area where the IME can add specific "Landlord Information Reporting Requirements" and include these in the Provider Manual.

Department Response: The provider/landlord would be responsible for identifying the historical cost of the assets and expenses related to the property. The Provider Manual will be updated for the rule change and will take into consideration this request.

4. Three respondents commented asking if the department can provide an initial form or schedule for each of their clients impacted by this rule change. Additionally, the respondents commented asking that since the IME has all of the historical cost information, will the IME use historical cost report information and can the form created by the IME be populated by the IME.

Department Response: The IME may not have all historical cost information dating back to when a facility entered the Medicaid program due to retention policies. Providers are responsible for supporting cost information included on the Financial and Statistical Reports. It is not expected that the IME will be creating a form for providers.

Specific to a reasonable rate of return, the calculation of a reasonable rate of return is specified in Iowa Administrative Code (IAC) 441 Chapter 81.6(11)m(2) and explains how to calculate this amount.

5. Three respondents commented asking if providers will be informed of amounts the IME has determined to be allowable, and if so, at what date will that information be given to providers.

Department Response: Providers are responsible for supporting cost information included on the Financial and Statistical Report. If information is needed during the desk review process to support reported items, PCA can request that information. If any adjustments are made to reimbursable cost, those adjustment will be sent to the provider for review, as is current procedure.

6. Two respondents commented the historical basis only references depreciable fixed assets. The respondents asked if providers can include the value of land or other assets in the amount to be used in the calculation.

Department Response: The question seems to be related to the calculation of a Reasonable Rate of Return. The rule says "...historical cost of the facility..." This can include land at its historical cost but would not include other assets.

7. Two respondents commented that in the past some landlord companies have preferred not to provide their cost information directly to their tenant. The respondents asked if there has been consideration for a separate reporting procedure for the non-related party lessors to transmit their cost information to the IME.

Department Response: Documentation to properly support all information reported on Financial and Statistical Report should be properly maintained based on IAC rules. If a lessor does not provide required information or does not support what is provided, the items of cost should not be included in reimbursable cost or can be removed from reimbursable cost by PCA.

8. Three respondents commented about the verbiage used of "tax cost" and asked what the definition of tax cost is, what the impact of using tax cost would be, and if there will be additional record keeping requirements related to using tax cost.

Department Response: The use of "tax cost" in IAC 441 Chapter 81.6(11)j was not changed in this rule change. There is no change to current usage; this is the historical cost of an asset and depreciation is to be calculated based on the straight-line basis. Therefore, there is no impact on providers and there are no additional schedules that will need to be created.

9. One respondent commented asking if there is no existing determination of the financial impact to providers, will the Department of Human Services (DHS) consider delaying the effective date until that calculation can be determined.

Department Response: There have not been discussions on delaying the rule change.

10. One respondent commented this area of reporting and the providers potentially impacted have limited access to historical information that may be necessary to comply with the changes. The analysis of the underlying information can be very complex and labor intensive. The respondent asked if the rule changes can be delayed until the specific providers impacted are identified and the potential impact can be determined.

Department Response: There have not been discussions on delaying the rule change. If a provider has been through a Change of Ownership (CHOW) and/or leases the facility where services are provided, they may be impacted.

11. One respondent commented asking if DHS can clarify how the treatment of depreciation will change following a change of ownership (CHOW).

Department Response: The treatment of depreciation following a CHOW should not change. The asset cost basis and depreciation for assets purchased by the previous owner are carried forward to the new owner. The new owner has been limited to the previous owner's cost basis in the asset (historical cost). In the case where multiple CHOWs have occurred, the original owner's basis in the asset continues to be carried forward and determines the allowable depreciation on the Financial and Statistical Report.

12. One respondent commented asking how many providers does DHS estimate could be impacted by the proposed rule changes.

Department Response: If a provider has been through a CHOW and/or leases the facility where services are provided, they may be impacted. Based on the Fiscal Year

(FY) 2018 NF Financial and Statistical Reports, there were 146 providers that had some amount of lease expense reported on Schedule C line 87 (Facility Lease), column 1 (Expenses per the General Ledger). Some of these providers may be leasing space other than the facility where services are provided.

13. One respondent commented asking if the rule changes impact both related party leases and non-related party leases.

Department Response: Both related party and non-related party leasing arrangements would be impacted.

14. One respondent commented asking what changes to the annual cost report would need to be implemented.

Department Response: It is not anticipated that any changes to the Financial and Statistical Report are necessary based solely on the rule change.

15. One respondent commented asking what changes to the Provider Manual for cost reporting would be necessary.

Department Response: The Provider Manual will be updated for the rule change.

16. One respondent commented asking if the IME will provide instructions detailing the information that would be required from the prior owner and the new owner based on these rule changes.

Department Response: Providers are responsible for being able to support all cost information that is included on the Financial and Statistical Report. Any documentation requested by PCA should support the reported items on the Financial and Statistical Report.

17. One respondent commented asking if the provisions in the rule changes will apply to all providers, including those in other cost-based programs, and not just leased facilities in the nursing facility program.

Department Response: This rule change is only for the Nursing Facility program.

18. One respondent commented his clients are concerned that the use of historical basis as a source of the calculation will not represent the full capital investment of the current property owners, especially those which have undergone physical renovation. In addition, based on the timeline of some information, access of part of the historical cost information may be unavailable to the current lease holder.

Department Response: Any depreciation on improvements or capital assets purchased by the lessor can be allowable depreciation. The cost basis of the items

purchased through a CHOW must be reported and depreciated based on the historical cost of the property in the hands of the original owner when the facility entered the Medicaid program. This does not change with this rule; however, providers should ensure capital assets that have changed hands through a CHOW are reporting depreciation in this way.

Providers are responsible for being able to support cost information that is included on the Financial and Statistical Report. If that support is not available, the item of cost should not be reported or included in reimbursable cost.

19. One respondent commented asking if the IME intends to send informational or instructional letters limited to those providers which may be impacted by the rule changes.

Department Response: The IME does not intend to send informational or instructional letters to only those providers that are impacted. If a provider has been through a CHOW and/or leases the facility where services are provided, they may be impacted. The IME does intend to send a general information letter about the rule change.

20. One respondent commented asking if the IME is proposing a method or some type of forum for the affected landlords and facility operators to work together to develop a timeline of information reporting for the calculation of provider payment rates.

Department Response: A forum for affected landlords and providers has not been discussed.